

**Remark**

Applicants respectfully request reconsideration of this application as amended. No claims have been amended nor cancelled. Therefore, claims 1-26 are present for examination.

**Double Patenting**

The Examiner has rejected various of the claims under the doctrine of obviousness-type double patenting based on U.S. Patent No. 6,594,825, the parent application of the present application. Applicants neither concede, nor argue against this rejection. In the interests of advancing the prosecution of this application, a terminal disclaimer is enclosed herewith.

**35 U.S.C. §103 Rejection***Wugofski in view of Rosser*

The Examiner has rejected claims 1-26 under 35 U.S.C. §103 (a) as being unpatentable over Wugofski, U.S. Patent No.6,003,041 ("Wugofski") in view of Rosser, U.S. Patent No. 6,446,261 ("Rosser"). As suggested by the Examiner, Wugofski shows a display that combines programs from more than one different source. Figure 4, shows that "Mad About You" is being shown on satellite channel 156, terrestrial broadcast channel 4 and cable channel 156 all at about the same time. Wugofski does not teach or suggest any way to select between these programs. There is no information in the display of Figure 4 to aid a viewer with a choice and no suggestion that a choice might be automated in any way.

Rosser is directed to targeted advertising (see Col. 12, lines 55 et seq.) The advertisements are selected based on monitoring user viewing patterns and the user has little, if any, say in the process (see Col. 4, lines 42 et seq.). Most of the reference is dedicated to the monitoring process

and to developing profiles of users or of viewing. The sections cited by the Examiner all relate to developing profiles by observing viewing history.

The Examiner suggests that the present invention is obvious from applying the Figure 4 display from Wugofski to the targeted advertising system of Rosser. Considering, for example, Claim 1, the present invention includes, "identifying, for each of the multiple versions, a set of descriptive information regarding the respective version, the descriptive information having a plurality of characteristics." There is no suggestion in Rosser of identifying multiple versions of an entertainment program. In Wugofski, the three broadcasts of "Mad About You" may or may not be the same version. They may be different episodes. There is no descriptive information about each version, save for the channel and broadcast time and no characteristics for this information. Finally and most importantly, there is no suggestion in Wugofski of "selecting one of the multiple versions for display based on the sets of descriptive information and on a set of user preferences."

In Rosser there is no suggestion of multiple versions of a commercial and no suggestion that the commercials be associated with different descriptive information. Accordingly, the references do not show that it would be obvious to select a version of a commercial or a program based on user preferences.

The present invention is not simply an approach to choosing between a game, a sitcom, the news or a movie, nor is it an approach to choosing between different sitcoms. Similarly, it is not an approach to choosing between a car, dishwashing soap, airline travel or clothing as in Rosser. It is also not an approach to choosing between an economy car commercial and a luxury car commercial. The present invention relates to "multiple available versions of [one] entertainment program." Wugofski treats the three broadcasts of "Mad About You" as identical. Rosser treats all

ads for a single product as identical. The present invention recognizes that the assumption that things are identical may no longer be valid.

Fundamentally, the problem of selecting between multiple available versions of a single entertainment program is a different problem from selecting between different programs, or more accurately different commercials. The references do not suggest an approach to selecting between different programs.

Only with the advent of new programming sources and the myriad formats offered by digital television has the selection of multiple available versions of an entertainment program become significant. Many big screen TV households now have the option of watching Monday Night Football in an NTSC version on an analog terrestrial or cable channel, as a digital SD version on a cable or DBS channel, as a digital HD version on a cable, DBS, digital terrestrial broadcast channel. All of these channels may carry the same game and the same sportscasters, but the video and audio formats may be very different for each one. Finding the choices is one matter, selecting one of the choices is another. The problem of making such a selection is simply not contemplated by the references. Note how there is nothing in the profiles of Rosser that could be used for such a selection.

Accordingly, Claim 1 is believed to be allowable over the references. The other claims all contain limitations similar to those of Claim 1 and are believed to be allowable therefore, inter alia.

### Conclusion

Applicant respectfully submits that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicant respectfully requests the rejections be withdrawn and the claims as amended be allowed.

### Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

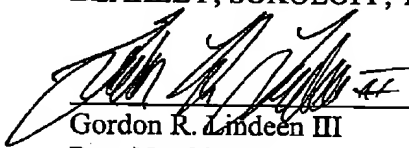
### Request for an Extension of Time

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension. Charge our Deposit Account.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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